

Notice of Allowability

Application No.

09/727,593

Examiner

Rob Rhode

Applicant(s)

HASELTINE, FLORENCE P.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Appeal Brief of 8/15/05.
2. ☒ The allowed claim(s) is/are 1, 3 - 4, 6 - 12, 14 - 18, 21, 23 - 24, 26 - 32, 34 - 38, 41, 43, 44, 46 - 52, 54 - 58, 61 - 69, 71 - 79, 81 - 89 and 91 - 96.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____

4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Currently, claims 1, 3 – 4, 6 - 12, 14 – 18, 21, 23 - 24, 26 – 32, 34 – 38, 41, 43, 44, 46 – 52, 54 – 58, 61 – 69, 71 – 79, 81 – 89 and 91 - 96 have been examined and are allowed as well as claims 2, 5, 13, 19 – 20, 22, 25, 33, 39 – 40, 42, 45, 53, 59 – 60, 70, 80 and 90 have been canceled.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Greene on Jan. 18, 2006.

The application has been amended as follows:

In the Claims

Claims 1, 3 - 4, 17, 21, 23 – 24, 37, 41, 43 – 44, 57, 67, 71, 76 – 77, 86 – 87 and 96 have been rewritten as follows:

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Claim 1. A method for providing a party accessing a merchant system with electronic access to an image of merchandise physically arranged according to a consumer, the method comprising:

providing a consumer with access to physical merchandise at a merchant's physical premises;

allowing the consumer to direct physical arrangement of the physical merchandise at the merchant's physical premises;

capturing an image of the physical merchandise as physically arranged at the merchant's physical premises according to the consumer;

loading the captured image onto a merchant system;

providing a device with access to the merchant system, wherein the device is physically remote from the merchant's physical premises; and

using the internet as a communication medium to transmit the captured image from the merchant system to the device, thereby enabling a party who is operating the remote device to access and view the captured image.

Claim 3. The method of claim 2 1, wherein the captured image includes one or more still photos.

Claim 4. The method of claim 2 1, wherein the captured image reflects a relationship between the physical merchandise and the consumer.

Claim 17. The method of claim 14 1, wherein the consumer and party are a single entity.

Claim 21. A computer medium or propagated signal storing a computer program capable of providing a party accessing a merchant system with electronic access to an image of merchandise physically arranged according to a consumer, wherein the consumer is provided with access to physical merchandise at a merchant's physical premises and the consumer is allowed to direct physical arrangement of the physical merchandise at the merchant's physical premises, the program comprising:

a capturing code segment to capture an image of the physical merchandise as physically arranged at the merchant's physical premises according to the consumer;

a loading code segment to load the captured image onto a merchant system;

a providing code segment to provide a device with access to the merchant system, wherein the device is physically remote from the merchant's physical premises;
and

an enabling code segment using the internet as a communication medium to transmit the captured image from the merchant system to the device, thereby enable enabling a party who is operating the remote device to access and view the captured image.

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Claim 23. The medium of claim 22 21, wherein the captured image includes one or more still photos.

Claim 24. The medium of claim 22 21, wherein the captured image includes a video clip.

Claim 37. The medium of claim 34 21, wherein the consumer and party are a single entity.

Claim 41. An apparatus capable of providing a party accessing a merchant system with electronic access to an image of merchandise physically arranged according to a consumer, wherein the consumer is provided with access to physical merchandise at a merchant's physical premises and the consumer is allowed to direct physical arrangement of the physical merchandise at the merchant's physical premises, the apparatus comprising:

a capturing device to capture an image of the physical merchandise as physically arranged at the merchant's physical premises according to the consumer;

a loading device to load the captured image onto a merchant system;

a providing device to provide a device with access to the merchant system, wherein the device is physically remote from the merchant's physical premises; and

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an enabling device using the internet as a communication medium to transmit the captured image from the merchant system to the device, thereby to enable enabling a party who is operating the remote device to access and view the captured image.

Claim 43. The apparatus of claim 42 41, wherein the captured image includes one or more still photos.

Claim 44. The apparatus of claim 42 41, wherein the captured image includes a video clip.

Claim 57. The medium of claim 54 41, wherein the consumer and party are a single entity.

Claim 67. A method of receiving feedback from a party regarding consumer-customized nonverbal information, the method comprising:

collecting, at a merchant's physical premises, an electronic version of consumer-customized nonverbal information;

transmitting the electronic version of the consumer-customized nonverbal information to a remote site for viewing by a party;

soliciting feedback from the party regarding the electronic version of the consumer- customized nonverbal information transmitted to the remote site for viewing by the party; and

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receiving feedback at the merchant's physical premises from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party.

Claim 71. The method of claim 67, wherein the consumer-customized nonverbal information comprises physical merchandise physically arranged according ~~by~~ to a consumer, the method further comprising:

providing the consumer with the physical merchandise at merchant's physical premises;

and

allowing the consumer to physically arrange the physical merchandise.

Claim 76. The method of claim 75, wherein receiving instructions from a consumer comprises receiving the instructions at the merchant's physical premises from the consumer located at a site physically remote from the merchant's physical premises.

Claim 77. A computer medium or propagated signal storing a computer program capable of receiving feedback from a party regarding consumer-customized nonverbal information, the program comprising:

a collecting code segment to collect, at a merchant's physical premises, an electronic version of consumer-customized nonverbal information;

a transmitting code segment to transmit the electronic version of the consumer-customized nonverbal information to a remote site for viewing by a party;

a soliciting code segment to enable solicitation of feedback from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party; and

a receiving code segment to receive feedback at the merchant's physical premises from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party.

Claim 86. The method of claim 85, wherein receiving instructions from a consumer comprises receiving the instructions at the merchant's physical premises from the consumer located at a site physically remote from the merchant's physical premises.

Claim 87. An apparatus capable of receiving feedback from a party regarding consumer-customized nonverbal information, the apparatus comprising:

a collecting device to collect, at a merchant's physical premises, an electronic version of consumer-customized nonverbal information;

a transmitting device to transmit the electronic version of the consumer-customized nonverbal information to a remote site for viewing by a party;

a soliciting device to enable solicitation of feedback from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party; and

a receiving device to receive feedback at the merchant's physical premises from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party.

Claim 96. The method of claim 95, wherein receiving instructions from a consumer comprises receiving the instructions at the merchant's physical premises from the consumer located at a site physically remote from the merchant's physical premises.

Reasons for Allowance

The invention claimed in the independent claims are distinguished from prior art of record, which contains no teachings or suggestions disclosed by Harada as well as Watanabe to have enabled a method and system for the subject matter recited in independent claims 1, 21, 41, 67, 77 and 87 which all include the allowable features. To begin with, Harada discloses and teaches a method and system for a customer and image data, which captures images of the consumer at physical store trying on clothes and the store employees taking a picture of the consumer wearing the clothes. Moreover, Harada teaches the clothes that consumer tried on clothes and the image is captured of these tried on clothes – cannot be revealed to the consumer. In addition, Harada discloses the downloading images of the most popular clothes to a disc and transporting the disc as well as a personal computer for an in home sales call by a sales person. Once at the consumer's home, the personal computer is used to retrieve the stored images of the most popular clothes – not the tried on clothes and displays for the

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consumer. However, Harada does not teach, disclose or would have suggested to one of ordinary skill a method and system for capturing an image of the physical merchandise as physically arranged at the merchant's physical premises according to the consumer; loading the captured image onto a merchant system; providing a device with access to the merchant system, wherein the device is physically remote from the merchant's physical premises; and using the internet as a communication medium to transmit the captured image from the merchant system to the device, thereby enabling a party who is operating the remote device to access and view the captured image nor does Harada teach, disclose or would have suggested to one of ordinary skill a method and system for transmitting the electronic version of the consumer-customized nonverbal information to a remote site for viewing by a party; soliciting feedback from the party regarding the electronic version of the consumer- customized nonverbal information transmitted to the remote site for viewing by the party; and receiving feedback at the merchant's physical premises from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party. In turn, Watanabe discloses a method and system for a network photograph service which provides digital photographic services on a network, only selected images are shown only to people that a user wishes to show the images, without cost and time upon or after photographing the images. Images registered with a database and the names of albums having been registered (album 1, album 2, and album 3) are shown on a screen of the user's personal computer. The user relates the names of the albums with the images and the correspondence set by the user is stored

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in the system. When the album name is specified by a user, only the images belonging to the album can be browsed in a unit of an album according to the stored correspondence. In addition, Watanabe does provide the capability for individuals to provide feedback on an album photo. However, Watanabe does not teach or would have suggested to one of ordinary skill in combination with Harada a method and system for capturing an image of the physical merchandise as physically arranged at the merchant's physical premises according to the consumer; loading the captured image onto a merchant system; providing a device with access to the merchant system, wherein the device is physically remote from the merchant's physical premises; and using the internet as a communication medium to transmit the captured image from the merchant system to the device, thereby enabling a party who is operating the remote device to access and view the captured image nor does Watanabe teach, disclose or would have suggested to one of ordinary skill a method and system for transmitting the electronic version of the consumer-customized nonverbal information to a remote site for viewing by a party; soliciting feedback from the party regarding the electronic version of the consumer- customized nonverbal information transmitted to the remote site for viewing by the party; and receiving feedback at the merchant's physical premises from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party. Thereby, the teachings of Harada and even if combined with Watanabe do not teach or suggest to one of ordinary skill that the differences between the subject matter recited in independent claims 1, 21, 41, 67, 77 and 87 and the prior art are such that the subject

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matter as whole would have been obvious at the time the invention was made to a person having ordinary skill in the art. Therefore, the invention claimed in independent claims 1, 21, 41 are distinguished from prior art of record by the fact that a method and system for **capturing an image of the physical merchandise as physically arranged at the merchant's physical premises according to the consumer; loading the captured image onto a merchant system; providing a device with access to the merchant system, wherein the device is physically remote from the merchant's physical premises; and using the internet as a communication medium to transmit the captured image from the merchant to the device, thereby enabling a party who is operating the remote device to access and view the captured image.** With regard to the invention claimed in independent claims 67, 77 and 87, these claims are distinguished from prior art of record by the fact that a method and system for **transmitting the electronic version of the consumer-customized nonverbal information to a remote site for viewing by a party; soliciting feedback from the party regarding the electronic version of the consumer- customized nonverbal information transmitted to the remote site for viewing by the party; and receiving feedback at the merchant's physical premises from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party.**

Discussion of the most relevant prior art, which does not fully disclose nor render obvious the invention as stated in claims 1, 21, 41, 67, 77 and 87:

A. US Patents and PG-Pubs.

(i) US 5,551,021 to Harada discloses a method and system for a customer and image data, which captures images of the consumer at physical store trying on clothes and the store employees taking a picture of the consumer wearing the clothes. Moreover, Harada teaches that the clothes that consumer tries on and an image is captured – that these images cannot be revealed/displayed to the consumer. In addition, Harada discloses the downloading images of the most popular clothes to a disc and transporting the disc as well as a personal computer for an in home sales call by a sales person. Once at the consumer's home, the personal computer is used to retrieve the stored images of the most popular clothes, which do not include the tried on clothes and display for the consumer. However, Harada does not teach, disclose or would have suggested to one of ordinary skill a method and system for capturing an image of the physical merchandise as physically arranged at the merchant's physical premises according to the consumer; loading the captured image onto a merchant system; providing a device with access to the merchant system, wherein the device is physically remote from the merchant's physical premises; and using the internet as a communication medium to transmit the captured image from the merchant system to the device, thereby enabling a party who is operating the remote device to access and view the captured image nor does Harada teach, disclose or would have suggested to one of ordinary skill a method and system for transmitting the electronic version of the

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consumer-customized nonverbal information to a remote site for viewing by a party; soliciting feedback from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party; and receiving feedback at the merchant's physical premises from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party. Thereby, this online method and system disclosed by Harada fails to anticipate the above bolded unique limitations or render them obvious.

(ii) US 6,578,072 B2 to Watanabe discloses a method and system for a network photograph service which provides digital photographic services on a network, only selected images are shown only to people that a user wishes to show the images, without cost and time upon or after photographing the images. Images registered with a database and the names of albums having been registered (album 1, album 2, and album 3) are shown on a screen of the user's personal computer. The user relates the names of the albums with the images and the correspondence set by the user is stored in the system. When the album name is specified by a user, only the images belonging to the album can be browsed in a unit of an album according to the stored correspondence. In addition, Watanabe does provide the capability for individuals to provide feedback on an album photo. However, Watanabe does not teach or would have suggested to one of ordinary skill in combination with Harada a method and system for capturing an image of the physical merchandise as physically arranged at

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the merchant's physical premises according to the consumer; loading the captured image onto a merchant system; providing a device with access to the merchant system, wherein the device is physically remote from the merchant's physical premises; and using the internet as a communication medium to transmit the captured image from the merchant system to the device, thereby enabling a party who is operating the remote device to access and view the captured image nor does Watanabe teach, disclose or would have suggested to one of ordinary skill a method and system in combination with Harada for transmitting the electronic version of the consumer-customized nonverbal information to a remote site for viewing by a party; soliciting feedback from the party regarding the electronic version of the consumer- customized nonverbal information transmitted to the remote site for viewing by the party; and receiving feedback at the merchant's physical premises from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party. Thereby, this online method, medium and system disclosed by Watanabe fails to anticipate the above bolded unique limitations or render them obvious.

B. Non Patent Literature

(iii) "ActiveTouch Launches WebEx Meeting Center: The first Application Service for Web-Based Multimedia Collaborative Meetings"; Business Editors & Technology Writers; Business Wire; Jul 12, 1999 (hereafter referred to a "WebEx") discloses a method and system for conducting live multi-user Web-based meetings, which enabled collaborative business meetings. However, WebEx does not disclose a method and

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system for capturing an image of the physical merchandise as physically arranged at the merchant's physical premises according to the consumer; loading the captured image onto a merchant system; providing a device with access to the merchant system, wherein the device is physically remote from the merchant's physical premises; and using the internet as a communication medium to transmit the captured image from the merchant system to the device, thereby enabling a party who is operating the remote device to access and view the captured image nor does WebEx teach, disclose or would have suggested to one of ordinary skill a method and system for transmitting the electronic version of the consumer-customized nonverbal information to a remote site for viewing by a party; soliciting feedback from the party regarding the electronic version of the consumer- customized nonverbal information transmitted to the remote site for viewing by the party; and receiving feedback at the merchant's physical premises from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party. Thereby, this online method and system disclosed by WebEx fails to anticipate the above bolded unique limitations or render them obvious.

C. Foreign Patent Literature

(iv) KR 2001047259 to Pyung discloses a method and system for organizing a beauty pagent online and running chatting outlets and shopping malls simultaneously. The chat sessions allow individuals with similar tastes in fashion to discuss the clothes that fit the models by their selecting grahics and sending these to a database for storing and

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the comments regarding the graphics are also stored. However, Pyung does not teach or suggest to one of ordinary skill in the art a method and system for capturing an image of the physical merchandise as physically arranged at the merchant's physical premises according to the consumer; loading the captured image onto a merchant system; providing a device with access to the merchant system, wherein the device is physically remote from the merchant's physical premises; and using the internet as a communication medium to transmit the captured image from the merchant system to the device, thereby enabling a party who is operating the remote device to access and view the captured image nor does Pyung teach, disclose or would have suggested to one of ordinary skill a method and system for transmitting the electronic version of the consumer-customized nonverbal information to a remote site for viewing by a party; soliciting feedback from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party; and receiving feedback at the merchant's physical premises from the party regarding the electronic version of the consumer-customized nonverbal information transmitted to the remote site for viewing by the party. Thereby, this online method, medium and system disclosed by Pyung fails to anticipate the above bolded unique limitations or render them obvious.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rhode whose telephone number is 571.272.6761. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571.272.7159.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

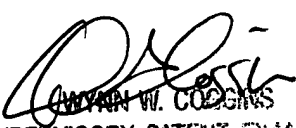
Alexandria, Va. 22313-1450

or faxed to:

571.273.8300 [Official communications; including
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571.273.6761 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

RER


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